

MELINDA HAAG (CABN 132612)  
United States Attorney  
JOANN M. SWANSON (CSBN 88143)  
Chief, Civil Division  
MELISSA K.B. SLADDEN (CSBN 203307)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-6962  
FAX: (415) 436-6748  
melissa.sladden@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FRANK PETKOVICH,

Plaintiff,

v.

UNITED STATES OF AMERICA, THE  
PRESIDIO TRUST, AND DOES 1-100  
inclusive,

Defendant.

No. C-11-05501 SC

Related Case No. C 12- 02116 SC

**STIPULATION OF DISMISSAL WITH  
PREJUDICE AND REQUEST FOR  
REMAND TO STATE COURT AND  
[PROPOSED] ORDER REGARDING  
SAME**

[STIPULATION OF DISMISSAL WITH PREJUDICE AND REQUEST FOR REMAND AND [PROPOSED]  
ORDER - CIVIL CASE NO. C-11-05501 SC AND RELATED CASE NO C-12-02116 SC]

1 The plaintiff Frank Petkovich, ("Plaintiff") and the federal defendant United States of  
2 America and the Presidio Trust ("Federal Defendants")<sup>1</sup> the defendant Reed and Graham, Inc.  
3 ("Reed and Graham"), the defendant Graham Contractors, Inc. ("Graham Contractors") and the  
4 defendant Granite Rock Company ("Granite Rock") by and through their designated counsel  
5 stipulate as follows:

6 WHEREAS, Plaintiff filed the above-captioned action under the Federal Tort Claims Act,  
7 28 U.S.C. §§ 2671 *et seq.*;

8 WHEREAS, Plaintiff and the Federal Defendants wish to avoid any further litigation and  
9 controversy and to dismiss and release fully any and all claims and issues that have been raised,  
10 or could have been raised in this action, which includes District Court Case Nos. C-11-05501 SC  
11 and C-12-02116 SC, which have transpired prior to the execution of this stipulation against the  
12 Federal Defendants;

13 WHEREAS, the Plaintiff and non-Federal Defendants seek to have the action remanded  
14 to the proper State Court once the Federal Action is dismissed with prejudice and request that the  
15 Court issue an order regarding the same;

16 WHEREAS, the Federal Defendants will not be named parties in the remanded State  
17 Court action and shall not be named a party in any future action that arises directly or indirectly  
18 from the alleged acts or omissions by the Federal Defendants that gave rise to the above-  
19 captioned actions C-11-05501 SC and C-12-02116 SC;

20 IT IS HEREBY STIPULATED as follows:

21 The related District Court actions case Nos. C-11-05501 SC and C-12-02116 SC are  
22 hereby dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) as  
23 against the Federal Defendants only. The Plaintiff and Federal Defendants shall bear their own  
24 fees and costs. By this stipulation of dismissal the Plaintiff dismisses and releases any claim  
25 against the Federal Defendants only arising directly or indirectly from the alleged acts or  
26 omissions by the Federal Defendants that gave rise to the above-captioned related actions C-11-

---

27  
28 <sup>1</sup>The Federal Defendant is specially appearing for the purposes of filing this stipulation.

05501 SC and C-12-02116 SC. The parties further stipulate and request that the action C-12-02116 SC be remanded to San Francisco Superior Court. However, the Federal Defendants will no longer be parties to the remanded action having had any claim arising directly or indirectly from their alleged acts or omissions that gave rise to the above-captioned related actions C-11-05501 SC and C-12-02116 SC released and dismissed with prejudice. Moreover, by signing this stipulation, which includes a request for remand to the proper State Court, the Federal Defendants shall not be deemed to consent to the jurisdiction of the State Court.

IT IS SO STIPULATED.

DATED: June 1, 2012

Respectfully submitted,  
MELINDA HAAG  
United States Attorney  
/s/ Melissa Sladden

MELISSA K.B. SLADDEN  
Assistant United States Attorney

DATED: June 1, 2012

LAWRENCE BRAGMAN  
Attorney at Law  
/s/ Lawrence Bragman

LAWRENCE BRAGMAN  
Attorney for Plaintiff

DATED: June 1, 2012

NORMAN LA FORCE  
Law Offices of Jeffrey F. Paccassi  
/s/ Norman La Force

NORMAN LA FORCE  
Attorneys for Defendant Reed and Graham, Inc.

DATED: June 1, 2012

CYNTHIA SHAMBAUGH  
Law Offices of Beverly E. Narayan  
/s/ Cynthia Shambaugh

CYNTHIA SHAMBAUGH  
Attorneys for Defendant Graham Contractors, Inc.

DATED: June 1, 2012

MATTHEW GIAMPAOLI  
LaMore, Brazier, Riddle & Giampaoli  
/s/ Matthew Giampaoli

MATTHEW GIAMPAOLI  
Attorney for Defendant and Cross-Defendant  
Granite Rock Company

~~PROPOSED~~ ORDER

Pursuant to stipulation of the parties, the related District Court actions case Nos. C-11-05501 SC and C-12-02116 SC are hereby dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) as against the Federal Defendants only. The Plaintiff and Federal Defendants shall bear their own fees and costs. By this stipulation of dismissal the Plaintiff dismisses and releases any claim against the Federal Defendants only arising directly or indirectly from the alleged acts or omissions by the Federal Defendants that gave rise to the above-captioned related actions C-11-05501 SC and C-12-02116 SC. The District Court Action C-12-02116 SC shall be remanded to San Francisco Superior Court. The Federal Defendants are not parties to the remanded action having had any claim arising directly or indirectly from their alleged acts or omissions that gave rise to the above-captioned related actions C-11-05501 SC and C-12-02116 SC released and dismissed with prejudice. By signing this stipulation, the Federal Defendants shall not be deemed to consent to the jurisdiction of the State Court.

IT IS SO ORDERED.

DATED: 6/7/12

